

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Teodoro Pena,

Civil No. 05-1969 (RHK/FLN)

Petitioner,

ORDER

v.

United States of America,

Respondent.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Franklin L. Noel dated August 31, 2005, and the undersigned's de novo review of the Objections thereto,

IT IS ORDERED:

1. The Objections (Doc. No. 4) are **OVERRULED**;
2. The Report and Recommendation (Doc. No. 2) is **ADOPTED**;
3. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241 (Doc. No. 1] is

DISMISSED for lack of jurisdiction.

Dated: September 22, 2005

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge